

April 23, 2020

The Honorable Robert W. Pratt  
Senior District Judge  
United States District Court  
for the Southern District of Iowa  
Robert\_Pratt@iasd.uscourts.gov

**Re: 4:05-CR-227-RP, U.S. v. Daniel Brown, Supplemental Information and Authorities**

Your Honor,

I write to provide the Court with updated information on COVID-19 that has been reported since the hearing on Mr. Brown's compassionate release matter and with further supplemental authorities.

As of today, 566 inmates in the custody of the Bureau of Prisons (BOP) and 342 BOP staff have tested positive for COVID-19; 24 inmates have died. These are only the reported numbers from the BOP taken from the sample of individuals who have actually been tested. These numbers are available on the BOP's publicly available website, <https://www.bop.gov/coronavirus/>.

On a statewide level, the number of cases in South Carolina continues to increase by the day. Today there are over 4,800 confirmed cases and 140 confirmed deaths. Notably, Williamsburg County, South Carolina, where Mr. Brown's facility is located, recently moved up one shade of red on the Johns Hopkins University's COVID-19 tracking map. And neighboring Clarendon County has now moved up to dark red, with 138 confirmed cases and 9 deaths. This is a significant increase from just several days ago. *See* <https://coronavirus.jhu.edu/us-map> (in states/territories type in 'South Carolina' to see state-specific conditions).

Even more troubling, governors of both South Carolina and neighboring Georgia have announced that they are opening many businesses, which experts warn will only further spread the virus. *See* Paul LeBlanc, Georgia governor to reopen some businesses as early as Friday as other states signal similar plans, CNN.COM (April 20, 2020), *available at* <https://www.cnn.com/2020/04/20/politics/georgia-brian-kemp-reopen-businesses-coronavirus/index.html>; William Wan et. al, States rushing to reopen are probably making a deadly mistake, experts warn, WASH. POST (April 23, 2020) (“An easing of restrictions will feed new targets to the coronavirus and increase chances of new surges in infections, math models show.”). And the inadequate response by the Bureau of Prisons and other correctional institutions continues unabated. *See* Hannah Dreier, U.S. Prison Factories are incubators for the virus, Washington Post (April 22, 2020) (detailing work conditions in many prisons lead to increased exposure to virus and associated health risks).

COVID-19 health concerns aside, since this Court’s October 8 Order was issued, several district courts have granted motions for compassionate release due to the sentencing disparity caused by 924(c) “stacking” for those defendants (like Mr. Brown) sentenced before enactment of the First Step Act who have since demonstrated rehabilitation. *See, e.g., United States v. Marks*, No. 03-CR-6033L at \*12 (W.D. N.Y. April 20, 2020) (granting motion for compassionate release for stacked 924(c) convictions) (quoting S. Rep. 98-225, at 41 (Aug. 4, 1983) (“The Committee believes that there may be unusual cases in which an eventual reduction in the length of a term of imprisonment is justified by changed circumstances. These would include ... cases in which ... extraordinary and compelling circumstances justify a reduction of an unusually long sentence”); *id.* at 16 (collecting cases) (“Several courts have recently ruled that the combination of changes to the ‘stacking’ provisions of § 924(c), coupled with the defendant’s rehabilitation, establish extraordinary and compelling conditions warranting a sentence reduction.”); *id.* at 31 (“In the Government’s view, there is

no place for redemption. I do not share that view.”); *United States v. Maumau* No. 2:08-cr-00758-TC-11 (D. Utah Feb. 18, 2020) (granting motion for compassionate release for stacked 924(c) convictions); *United States v. Urkevich*, No. 8:03CR37, 2019 WL 6037391 (D. Neb. Nov. 14, 2019) (same).

Respectfully submitted,

/s/ John S. Albanes

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